

OPEN MEETING AGENDA ITEM

W-02031A-10-0168, W-02327A-10-0169,
W-01906A-10-0170, W-01906A-10-0171,
W-02031A-10-0171, W-02327A-10-0171,
W-01906A-10-0183, W-02031A-10-0184
and W-02327A-10-0185



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Gerrodette <tricia.gerrodette@gmail.com>

Friday, July 10, 2015, 8:47 AM

To:

Utilities Div - Mailbox; Hearings Division

Cc:

Forese-Web; Little-Web; Bitter-Smith-Web; Stump-Web; RBurns-Web

Subject:

agenda item for East Slope Water Company

Attachments:

Media letter-East Slope Water.pdf; 15051210_22_26.pdf

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2015 JUL -2 AM 8:47
AZ CORP COMMISS
DOCKET CONTROL

Attn: Steve Olea, Director, Utilities Division

I'm writing with regard to Item 16 (East Slope Water Company) on the Regular Agenda for the upcoming July 7-8 ACC meeting. I request that this email and the letters attached to this email be made part of the record and distributed to the ACC commissioners and necessary staff members in the docket for the commission's consideration.

On behalf of East Slope Water Company, Southwestern Utility Management sent the attached letter, titled "Media letter-East Slope Water" to all of their customers. We don't know who else might have received the letter. Internally, the letter is titled simply "ARTICLE" and is undated.

This letter contains statements that were part of the East Slope filing with ACC in January of this year. I made use of some of those statements in a communication exchange with WIFA Director Sandy Sutton. She responded to me about some of the inaccuracies in my letter, in which I cited the East Slope information. I asked if that misinformation on file with the ACC had been corrected by WIFA and Director Sutton said that it had been corrected. But now some of that same misinformation has been widely distributed.

Our request to the ACC is, if you agree there is misinformation in the "Media letter-East Slope Water", that East Slope be required to send out a correction letter to all parties to whom they sent the misinformation. A May 11, 2015 letter to me from Director Sutton, also attached as file "15051210_22_26" identifies some of the misinformation filed with the ACC and now repeated in this very public letter.

The Huachuca Audubon Society is upset at being presented as a reason for any potential water outages that customers might suffer. In no way did we ever threaten litigation. We did ask WIFA to review the project proposals, which they did and which they modified. We hope the ACC will take steps to get this "Article" corrected and the correction distributed by Southwestern Utility Management back out to whoever got the original.

Thank you for your consideration of this issue. Please feel free to contact me for any further information. I have tried to keep this brief and therefore may have left out details that would help clarify what happened.

Patricia Gerrodette, President
Huachuca Audubon Society
(520) 378-4937

Arizona Corporation Commission

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You have to get over the color green; you have to quit associating beauty with gardens and lawns; you have to get used to an inhuman scale; you have to understand geological time.

From *Thoughts in a Dry Land*, Wallace Stegner, 1972

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ARTICLE


For the past five years, East Slope Water Company has been trying to repair and replace failing wells that provide drinking water to more than 900 homes and businesses near Sierra Vista in Cochise County. As the wells continue to age, the company's customers have had to endure numerous water outages and curtailments due to a lack of water production. Unfortunately, recent protests by the Audubon Society have effectively blocked East Slope from replacing the wells, leaving the company's residents without much needed drinking water in the hot summer months.

In 2014 it appeared as though East Slope's water woes were going to be resolved. In 2012 the company received permission from the Arizona Corporation Commission (ACC) to borrow \$2,748,504 from the Water Infrastructure Finance Authority (WIFA) to complete the crucial water system repairs. WIFA is a state agency that finances major repairs and improvements of water and sewer systems to serve existing customers. East Slope hired Tucson-based engineering firm Westland Resources to conduct a comprehensive study to plan the system repairs. After the engineering study was completed, the company asked WIFA to start its process to fund the construction project.

During the review process, the Audubon Society objected to the proposed loan unless the project was subjected to a costly environmental study to consider the impact pumping from the replacement wells might have on the San Pedro River flows. The

Audubon Society argued that the environmental study should include not only the impact of the proposed wells, but the cumulative impact of all of the wells in the vicinity.

The company responded that the project should be categorically excluded from the environmental studies for at least three reasons. First, the proposed wells are replacing existing wells which serve existing residents, so there is no intent to increase water demand. Second, the wells will be located eight miles away from the San Pedro River and are at a higher elevation than the river, so common sense dictates the wells will not capture stream flows. Finally, a hydrology study considering the cumulative impacts would likely cost more than \$100,000 and take years to conduct and be approved.

 additional costs will be passed along to the customers in the form of higher rates.

With the threat of litigation clouding the project, WIFA determined it could not issue a categorical exclusion for the wells, so the company would need to conduct the expensive comprehensive hydrology study before it could borrow the money to drill the replacement wells. Further complicating the matter is the fact that the Arizona Corporation Commission order allowing the company to borrow money did not contemplate a hydrology study, there is no funding for such a study, and the deadline for the loan approval has almost expired.

WIFA pledged to continue to work with the company and see if there are other paths that would allow East Slope to move forward with the well project without the environmental hydrology study. Likewise, the Arizona Corporation Commission is

reviewing its order to determine what can be done to resolve the issue and possibly extend the time for East Slope to complete the project.

Still, East Slope's hands are tied by the Audubon Society's protest. Due to the litigation threat against the state agency, the company cannot obtain financing to drill the much needed replacement wells. Without the replacement wells, East Slope's residents will continue to suffer from water outages. Even if East Slope receives the authority to conduct the environmental study that the Audubon Society seeks, it will be years before the study is authorized, conducted, and approved. Though the company and its engineers assert the study is pointless, the analysis will be expensive and the costs will be passed along to the current residents regardless of its worth. In the meantime, these same customers will be waiting for water.

DOUG DUCEY
Governor



SANDRA SUTTON
Executive Director

Water Infrastructure Finance Authority of Arizona
Arizona's water and wastewater funding source
1110 W. Washington Street, Suite 290, Phoenix, Arizona 85007 | azwifa.gov | (602) 364-1310

May 11, 2015

Patricia Gerrodette
3327 Eagle Ridge Drive
Sierra Vista, AZ 85650

Ms. Gerrodette,

The purpose of this correspondence is to respond to your May 6, 2015 letter and to correct some misstatements made within.

As part of WIFA design loan 720233-13, East Slope Water Company began a two-step process for selection of capital improvement projects: a system evaluation to prioritize and select projects, followed by project design. The first set of pipeline projects was selected in early 2014, and following review, WIFA issued a Categorical Exclusion (CatEx) on February 5, 2014. WIFA explained this decision in its May 21, 2014 letter to you and to the Huachuca Audubon Society, in response to your objections.

As the Company began to consider the remaining project priorities, they discussed and submitted to WIFA the options they were considering so that WIFA could begin its environmental review process. As part of that process, WIFA visited the system on November 20, 2014. During that visit, WIFA noted that the wells being considered for rehabilitation and/or replacement were close in proximity to two tributaries to the San Pedro River and associated San Pedro Riparian National Conservation Area. Other storage and pipeline projects under consideration were to be constructed on previously undisturbed land. WIFA informed the Company that these projects would require an Environmental Assessment. Following that discussion, the Company made the decision to remove those projects from consideration.

In a December 22, 2014 memo from WestLand Resources, the Company submitted the final set of projects selected for design and construction. These projects included storage, water main and booster station improvements, all within the existing footprint of the system and within existing rights-of-way. WIFA determined that these projects qualified for a Categorical Exclusion, which it issued on April 2, 2015.

A March 6, 2015 letter submitted to the Arizona Corporation Commission (ACC) by an attorney for East Slope, and referenced in your letter to WIFA dated May 6, 2015, does not present these facts accurately, and instead states that WIFA changed its decision due to the objections to the CatEx. To reiterate the facts, WIFA has now issued two CatExes, for both the first and second

Ms. Patricia Gerrodette
May 11, 2015
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set of projects selected by the Company. As we stated in our May 21, 2014 letter, WIFA did consider the objections you raised; however, they were not upheld, as you have stated in your May 6, 2015 letter. Now that the Company has selected the final set of projects, it has submitted them to ACC for approval of debt authorization for construction financing.

Unlike the Arizona Department of Environmental Quality and US Environmental Protection Agency (EPA), WIFA is not an environmental regulatory agency, but rather is a finance authority. WIFA's requirement under A.A.C. R18-15-107(A) that the dispute resolution process applies to those having a substantial financial interest in or suffering a substantial adverse financial impact is not contrary to its enabling laws.

With respect to your concern that WIFA may break up projects to justify categorical exclusion determinations, WIFA has not engaged in such a practice and did not do so in this matter. WIFA's process is consistent with its statutes and rules, and has been approved by EPA.

For your information, WIFA is currently working on revisions to its website which will include a sign-up for an email distribution list including WIFA's board meetings and environmental review notices.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Sutton', with a long horizontal line extending to the right.

Sandra Sutton
Executive Director